

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2005-43-S - ORDER NO. 2005-617  
OCTOBER 31, 2005

IN RE: Joint Application of J. C. Cox Utility, Inc. for    ) ORDER APPROVING  
Approval of the Transfer of the Forest Hills        ) TRANSFER AND  
Sewer Systems to JACABB Utilities, LLC            ) ISSUING CERTIFICATE

**I. INTRODUCTION**

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Joint Application of J.C. Cox Utilities, Inc. (J.C. Cox) and JACABB Utilities, LLC (JACABB) (together, the Joint Applicants), requesting that the Commission expedite and approve the transfer of the wastewater treatment facility, including infrastructure and all assets without limitation, and all operating authority, (the wastewater treatment facility) serving Forest Hills subdivision, in Anderson County, South Carolina.

J.C. Cox has agreed to transfer and JACABB has agreed to buy the operating assets of the wastewater treatment facility as is set out in the agreement between the Joint Applicants. The agreement assigns the operating authority to service all of the customers of the Forest Hills subdivision to JACABB, as well as any and all easements of the Forest Hills subdivision. The transfer contemplates, after regulatory approvals, that there will be a final transfer and sale of the wastewater treatment facility, and, further, that JACABB

assumes liability attendant to the operation of the wastewater treatment facility of the Forest Hills Subdivision.

Also, according to the Joint Application, this transfer, if approved by the Commission, is subject to the terms, conditions and rates set out in Order No. 2004-101 dated March 11, 2004, in Docket No. 2003-277-S and is subject to the terms and conditions of the NPDES permit issued by the South Carolina Department of Health and Environmental Control (DHEC) and all applicable consent orders between J.C. Cox and DHEC.

Pursuant to the directives of the Commission's Docketing Department, a Notice of Filing was published in a newspaper of general circulation in the service area of the utility. J.C. Cox furnished proof of publication of the notice. No Protests or Petitions to Intervene were received.

Accordingly, a hearing was held before the Commission on October 13, 2005, in the offices of the Commission. The Honorable Randy Mitchell, Chairman, presided. J.C. Cox was represented by Scott Elliott, Esquire and Charles H. Cook, Esquire. J.C. Cox presented the testimony of Robert J. Ellison. JACABB was represented by James S. Eakes, Esquire. JACABB presented the testimony of Steve Goldie. The Office of Regulatory Staff (ORS) was represented by Shannon B. Hudson, Esquire. ORS presented the testimony of Dawn M. Hipp.

## **II. SUMMARY OF TESTIMONY**

Robert J. Ellison, President of J.C. Cox Utilities, Inc. testified. Ellison noted that that Company provides sanitary sewer service to the thirty-three (33) residents of the

Forest Hills Subdivision located near the town of Williamston in Anderson County, South Carolina. The wastewater treatment facility owned and operated by the Company consists of a series of sewage collection lines leading to an aerobic wastewater treatment lagoon.

Ellison stated that he bought the shares of J.C. Cox in June of 1996 from its owner, J.C. Cox, Jr. At the same time, Ellison and his uncle James T. Ellison bought fifty-five (55) undeveloped lots in the Forest Hills Subdivision. According to Ellison, the wastewater treatment system is the same today as it was in 1996 and there has been no development in the Forest Hills Subdivision since that time. The DHEC permit is held in the name of J.C. Cox Utilities, Inc. and J.C. Cox Utility, Inc. is operating the sanitary sewer lagoon under its permit with DHEC and pursuant to an existing consent order.

Ellison noted that J.C. Cox Utilities, Inc. has agreed to transfer assets consisting of its wastewater treatment facility to JACAAB Utilities, LLC subject to the approval of the South Carolina Public Service Commission. He testified that he has found it extremely difficult and time consuming to own and operate the Company's wastewater treatment facilities. Ellison noted that he did not fully understand the operation, maintenance and repair of the sewer lagoon and he had found it equally difficult to improve and expand the wastewater treatment facilities. Further, he has been unable to develop the remaining lots in Forest Hills. Accordingly, the decision was made to sell the wastewater treatment facilities.

Further, Ellison noted that JACABB Utilities, LLC is owned principally by Steve Goldie, an engineer who also has his own engineering firm, Goldie & Associates. The

latter company serves as the operator of the sanitary sewer lagoon owned by J.C. Cox. Accordingly, Mr. Goldie, according to Ellison, is very familiar with the wastewater treatment facilities and the necessity of improving and expanding the system. Mr. Ellison also stated that the proposed transfer is in the public interest.

Steve Goldie testified on behalf of JACABB. Goldie noted that JACABB entered into an asset purchase agreement to acquire the wastewater treatment facility in the Forest Hills Subdivision from J.C. Cox Utilities, Inc, and that the agreement is dated November 30, 2004. Goldie states that he has a licensed staff in place to operate the J.C. Cox system, and he has an engineering staff that has extensive experience in dealing with wastewater compliance issues, the operation of these facilities, and with compliance issues involving the National Pollutant Discharge Elimination System. Thus, Goldie concludes that JACABB has the technical expertise needed. Further, Goldie states that JACABB has the financial capability of making the improvements necessary to bring the wastewater treatment system in Forest Hills into compliance with DHEC regulations and to maintain satisfactory service to the customers located in the Forest Hills Subdivision. Lastly, Goldie states that the transfer is in the best interest of the property owners served by the utility, in that his company has the expertise to significantly improve their service and to assure the customers of continued service in compliance with all regulations applicable to the system.

Finally, Dawn M. Hipp testified on behalf of the Office of Regulatory Staff. Ms. Hipp noted that DHEC was in favor of the transfer. Further, Ms. Hipp noted that the public interest would be served by the transfer of the utility to JACABB, and that the

transfer would ensure that the customers are provided with safe and reliable wastewater collection and treatment services on a continued basis; that JACABB would furnish the technical expertise and engineering resources required to adequately operate the existing systems; that JACABB would provide the necessary financial resources to facilitate system improvements; and that JACABB would operate the utility in compliance with all DHEC and Commission regulations which safeguard the environment and the consumer.

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. J.C. Cox Utilities, Inc. has agreed to transfer and JACABB has agreed to buy the operating assets of the wastewater treatment facility as set out in an agreement between the two parties.

2. The agreement assigns the operating authority to service all of the customers of the Forest Hills subdivision to JACABB, as well as any and all easements of that subdivision.

3. The transfer contemplates, after regulatory approvals, that there will be a final transfer and sale of the wastewater treatment facility, and that JACABB will assume liability attendant to the operation of the wastewater treatment facility of the Forest Hills Subdivision.

4. If the transfer is approved, it is subject to the terms, conditions, and rates set out in Order No. 2004-101, dated March 11, 2004, in Docket No. 2003-277-S, and is subject to the terms of the NPDES permit issued by DHEC and all applicable consent orders between J.C. Cox and DHEC.

5. The buyer is well qualified to operate the utility. JACABB has the technical, financial, and managerial expertise to provide wastewater services to the customers in the Forest Hills subdivision. Another Company owned by Goldie presently operates the utility.

6. 26 S.C. Code Ann. Regs. 103-504 (Supp. 2004) states that no existing public utility supply sewerage disposal to the public...shall sell....any utility system...without first obtaining from the commission a certificate that the sale... is in the public interest...

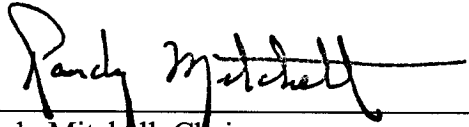
7. The proposed sale in this docket is clearly in the public interest, the agreement should be approved, and the requisite certificate should be issued. Again, the evidence shows that the buyer, JACABB, is well qualified to operate the wastewater utility, in that the buyer has the necessary technical, financial, and managerial expertise. Further, the buyer has the ability to make any necessary improvements to the system, and to operate the system in compliance with all Commission and DHEC regulations.

#### **IV. ORDER**


The transfer agreement between the parties is approved, and the certificate that the sale is in the public interest is hereby issued, pursuant to this Order. The transfer from J.C. Cox to JACABB is subject to the terms, conditions, and rates set out in Order No. 2004-101, dated March 11, 2004, in Docket No. 2003-277-S and is subject to the terms of the NPDES permit issued by DHEC and all applicable consent orders between J.C. Cox and DHEC.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
\_\_\_\_\_  
Randy Mitchell, Chairman

ATTEST:

  
\_\_\_\_\_  
G. O'Neal Hamilton, Vice Chairman

(SEAL)